

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV/](http://www.ca2.uscourts.gov/)). IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals
for the Second Circuit, held at the Daniel Patrick Moynihan
United States Courthouse, 500 Pearl Street, in the City of
New York, on the 23rd day of October, two thousand eight.

PRESENT: HON. JOSÉ A. CABRANES,
HON. ROBERT A. KATZMANN,
HON. REENA RAGGI,
Circuit Judges.

SUKHWINDER SINGH,
Petitioner,

v.

07-2386-ag
NAC

MICHAEL B. MUKASEY, ATTORNEY GENERAL,¹
Respondent.

FOR PETITIONER: Genet Getachew, Brooklyn, New York.

¹Pursuant to Federal Rule of Appellate Procedure 43(c)(2), Attorney General Michael B. Mukasey is automatically substituted for former Attorney General Alberto R. Gonzales as the respondent in this case.

1 **FOR RESPONDENT:** **Gregory G. Katsas, Acting Assistant**
2 **Attorney General, Michelle Gorden**
3 **Latour, Assistant Director, Tracie**
4 **N. Jones, Trial Attorney, Office of**
5 **Immigration Litigation, Civil**
6 **Division, U.S. Department of**
7 **Justice, Washington, D.C.**

1 UPON DUE CONSIDERATION of this petition for review of a
2 decision of the Board of Immigration Appeals ("BIA"), it is
3 hereby ORDERED, ADJUDGED, AND DECREED, that the petition for
4 review is DENIED.

5 Sukhwinder Singh, a native and citizen of India, seeks
6 review of a May 10, 2007 order of the BIA affirming the
7 October 23, 2005 decision of Immigration Judge ("IJ") Joanna
8 Miller Bukszpan denying his application for asylum,
9 withholding of removal, and relief under the Convention
10 Against Torture ("CAT"). *In re Sukhwinder Singh*, No. A79
11 458 279 (B.I.A. May 10, 2007), *aff'g* No. A79 458 279 (Immig.
12 Ct. N.Y. City Oct. 23, 2005). We assume the parties'
13 familiarity with the underlying facts and procedural history
14 of the case.

15 When the BIA adopts the decision of the IJ and
16 supplements the IJ's decision, we review the decision of the
17 IJ as supplemented by the BIA. *See Yan Chen v. Gonzales*,
18 417 F.3d 268, 271 (2d Cir. 2005). We ordinarily review the

1 agency's factual findings, including adverse credibility
2 determinations, under the substantial evidence standard. 8
3 U.S.C. § 1252(b)(4)(B); see also *Corovic v. Mukasey*, 519
4 F.3d 90, 95 (2d Cir. 2008). Here, however, while Singh
5 challenges the IJ's adverse credibility determination in his
6 brief to this Court, as the Government observes, he failed
7 to exhaust that argument before the BIA. In addition to the
8 statutory requirement that a petitioner exhaust the
9 categories of relief he seeks, 8 U.S.C. § 1252(d)(1), a
10 petitioner must also raise to the BIA the specific issues he
11 later raises before us. See *Foster v. INS*, 376 F.3d 75, 78
12 (2d Cir. 2004). While not jurisdictional, this judicially
13 imposed exhaustion requirement is mandatory. See *Lin Zhong*
14 *v. U.S. Dep't of Justice*, 480 F.3d 104, 107 n.1., 123 (2d
15 Cir. 2007). Because Singh failed to challenge the IJ's
16 adverse credibility determination before the BIA, and
17 because the Government has identified that failure, we
18 decline to consider the challenge he now raises in this
19 Court. See *id.* at 107 n.1. Singh's failure to exhaust any
20 challenge to the IJ's adverse credibility determination in
21 his case is dispositive of his claims for asylum,
22 withholding of removal, and CAT relief. Accordingly, we

1 need not consider any other argument presented by either
2 party.

3 For the foregoing reasons, the petition for review is
4 DENIED. As we have completed our review, any stay of
5 removal that the Court previously granted in this petition
6 is VACATED, and any pending motion for a stay of removal in
7 this petition is DISMISSED as moot. Any pending request for
8 oral argument in this petition is DENIED in accordance with
9 Federal Rule of Appellate Procedure 34(a)(2), and Second
10 Circuit Local Rule 34(b).

11
12 FOR THE COURT:
13 Catherine O'Hagan Wolfe, Clerk
14

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16 By: _____